1 2 3 4 5 6 7 8 9	Filed by: Paper 81 Fred E. McKelvey
3	Senior Administrative Patent Judge Board of Patent Appeals and Interferences
5	Mail Stop Interference
6	P.O. Box 1450
8	Alexandria, VA 22313-1450 Tel: 571-272-4683
ğ	Fax: 571-273-0042
10	
11	UNITED STATES PATENT AND TRADEMARK OFFICE
12	
13	
14	BEFORE THE BOARD OF PATENT APPEALS
15	AND INTERFERENCES
16	
17	
18	STEVEN P. NOLAN and JINKUN HUANG,
19	Tunion Donto
20 21	Junior Party (Application 00/302 860)
22	(Application 09/392,869),
23	v
24	· · · · · · · · · · · · · · · · · · ·
25	ROBERT H. GRUBBS and MATTHIAS SCHOLL,
26	·
27	Senior Party
28	(Application 09/576,370).
29	
30	
31	Patent Interference 105,373 (McK)
32	Technology Center 1600
33	
34	Future 1, 5 Lune 2007
35 36	Entered: 5 June 2007
37	D.C. FDFD F Makel VEV. Control Administrative Detect Lede and
38	Before: FRED E. McKELVEY, Senior Administrative Patent Judge, and
39	SALLY GARDNER LANE, and JAMES T. MOORE, Administrative Patent
40	Judges.
41	
42	McKELVEY, Senior Administrative Patent Judge.
43	
44	JUDGMENT
45	

1	Nolan Substantive Motion 2 (Paper 73) moves to concede priority to		
2	Grubbs. The Motion is treated as a request for entry of an adverse judgmen		
3	as to Count 2. 37 C.F.R. § 41.127(b) (2006).		
4	Upon consideration of Nolan Substantive Motion 2, it is		
5	ORDERDED that judgment on priority as to Count 2 (the sole		
6	count in the interference) is awarded against Junior Party Steven P. Nolan		
7	and Jinkun Huang.		
8	FURTHER ORDERED that Junior Party Steven P. Nolan and		
9	Jinkun Huang is not entitled to a patent containing claims 9, 11-13, 23-24,		
10	27-30, 39-40, 45-46, 51, 52, 55-56, 59, 61, 71, 73, 77, 89, 91, and 107-109		
11	(corresponding to Count 2) of:		
12 13 14	Nolan application 09/392,869 filed 09 September 1999		
15	FURTHER ORDERED that if there is a settlement agreement,		
16	attention is directed to 35 U.S.C. § 135(c).		
17	FURTHER ORDERED that a copy of this JUDGMENT		
18	shall be placed in the files of (1) Nolan application 09/392,869, filed 09		
19	September 2000, and (2) Grubbs application 09/576,370, filed 22 May 2000		
20	FURTHER ORDERED that the Clerk is directed to distribute		
21	the files upon entry of this JUDGMENT.		
22			

1		
2		
3	/ss/ Fred E. McKelvey)
4	FRED E. McKELVEY)
5	Senior Administrative Patent Judge)
6) BOARD OF
7	/ss/ Sally Gardner Lane) PATENT
8	SALLY GARDNER LANE) APPEALS
9	Administrative Patent Judge) AND
10) INTERFERENCES
11	/ss/ James T. Moore)
12	JAMES T. MOORE)
13	Administrative Patent Judge)

```
cc (via Electronic Mail):
 1
 2
 3
     Attorney for Grubbs
     (real party in interest California Institute of Technology;
 4
     licensee: Materia, Inc. and Lexicon Pharmaceuticals
 5
 6
     (New Jersey), Inc.):
 7
          Michael L. Goldman, Esq.
 8
 9
           NIXON PEABODY LLP
          1300 Clinton Square
10
          Rochester, NY 14604
11
12
13
           Tel:
                       585-263-1304
14
          Fax:
                       585-263-1600
15
           Ronald I. Eisenstein, Esq.
16
           NIXON PEABODY LLP
17
           100 Summer St.
18
           Boston, MA 02110
19
20
21
           Tel:
                       617-345-6054
22
           Fax:
                       617-345-1300
                      mgoldman@nixonpeabody.com
23
           Email:
                      reisenstein@nixonpeabody.com
24
           Email:
25
     Attorney for Nolan
26
     (real party in interest
27
     University of New Orleans Foundation):
28
29
           R. Andrew Patty II, Esq.
30
           Mary H. Drabnis, Esq.
31
32
           SIEBERTH & PATTY, L.L.C.
           4703 Bluebonnet Blvd.
33
          Baton Rouge, LA 70809
34
35
                       225-291-4600
36
           Tel:
                       225-291-4606
37
           Tel:
38
           Email:
                       rap@spiplaw.com
                      mhd@spiplaw.com
39
           Email:
```

40